

COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1028

(Reference to Senate engrossed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 6-126, Arizona Revised Statutes, is amended to read:

6-126. Application fees for financial institutions and enterprises

A. The following nonrefundable fees are payable to the department with the filing of the following applications:

1. To apply for a banking permit, ten thousand dollars.
2. To apply for an amendment to a banking or savings and loan association permit, one thousand dollars.
3. To establish each banking branch office, one thousand five hundred dollars.
4. To move a banking office to other than an established office of a bank, one thousand dollars.
5. To apply for a savings and loan association permit, ten thousand dollars.
6. To establish each savings and loan association branch office, one thousand five hundred dollars.
7. To move an office of a savings and loan association to other than an established office, one thousand dollars.
8. To organize and establish a credit union, one hundred dollars.
9. To establish each credit union branch or credit union freestanding automated teller machine or to move a credit union office to other than an established office of a credit union, two hundred fifty dollars.
10. To organize and establish any other financial institutions for which an application or investigation fee is not otherwise provided by law, two thousand five hundred dollars.
11. To acquire control of a financial institution, other than a consumer lender, five thousand dollars.
12. To apply for a trust company license, five thousand dollars.
13. To apply for a commercial mortgage banker, mortgage banker, escrow agent or consumer lender license, one thousand five hundred dollars.

1           14. To apply for a mortgage broker, sales finance company or debt  
2 management company license, eight hundred dollars.

3           15. To apply for a collection agency license, one thousand five hundred  
4 dollars.

5           16. To apply for a deferred presentment company license, one thousand  
6 dollars.

7           17. To apply for a motor vehicle dealer license, three hundred dollars.

8           18. To apply for a branch office of an escrow agent, consumer lender,  
9 commercial mortgage banker, mortgage banker, trust company, money  
10 transmitter, collection agency or deferred presentment company, five hundred  
11 dollars.

12           19. To apply for a branch office of a mortgage broker, debt management  
13 company or sales finance company, two hundred fifty dollars.

14           20. To apply for approval of the articles of incorporation of a  
15 business development corporation, five hundred dollars.

16           21. To establish each freestanding automated teller machine, not  
17 otherwise provided by law, five hundred dollars.

18           22. To apply for approval for the merger or consolidation of two or  
19 more financial institutions, five thousand dollars per institution.

20           23. To apply for approval to convert from a national bank or federal  
21 savings and loan charter to a state chartered institution, five thousand  
22 dollars.

23           24. To apply for approval to convert from a federal credit union to a  
24 state chartered credit union, one thousand dollars.

25           25. To apply for approval to merge or consolidate two or more credit  
26 unions, five hundred dollars per credit union.

27           26. To move an established office of an enterprise to other than an  
28 established office, fifty dollars.

29           27. To issue a duplicate or replace a lost enterprise's license, one  
30 hundred dollars.

31           28. To change a responsible person on a mortgage broker's, commercial  
32 mortgage banker's or a mortgage banker's license, two hundred fifty dollars.

33           29. To change an active manager on a collection agency license or a  
34 manager of a money transmitter branch office license, two hundred fifty  
35 dollars.

1           30. To change the licensee name on a financial institution or  
2 enterprise license, two hundred fifty dollars.

3           31. To apply for a money transmitter license, one thousand five hundred  
4 dollars plus twenty-five dollars for each branch office and authorized  
5 delegate to a maximum of four thousand five hundred dollars.

6           32. To acquire control of any money transmitter or controlling person  
7 pursuant to chapter 12 of this title, two thousand five hundred dollars.

8           33. To receive the following publications:

9           (a) Quarterly bank and savings and loan statement of condition, not  
10 more than ten dollars per copy.

11           (b) Monthly summary of actions report, not more than five dollars per  
12 copy.

13           (c) A list of licensees, a monthly pending actions report and all  
14 other in-house prepared reports or listings made available to the public, not  
15 more than one dollar per page.

16           34. TO APPLY FOR A LOAN ORIGINATOR LICENSE, AN AMOUNT TO BE DETERMINED  
17 BY THE SUPERINTENDENT.

18           B. On issuance of a license or permit for a financial institution or  
19 enterprise, the superintendent shall collect the first year's annual  
20 assessment or renewal fee for the financial institution or enterprise  
21 prorated according to the number of quarters remaining until the date of the  
22 next annual assessment or renewal.

23           C. The following annual renewal fees shall be paid each year:

24           1. For an escrow agent, or trust company, one thousand dollars plus  
25 two hundred fifty dollars for each branch office.

26           2. For a debt management company or sales finance company, five  
27 hundred dollars plus two hundred dollars for each branch office.

28           3. For a collection agency, six hundred dollars plus two hundred  
29 dollars for each branch office.

30           4. For a motor vehicle dealer, one hundred fifty dollars.

31           5. For an inactive mortgage broker, two hundred fifty dollars.

32           6. For a mortgage banker that negotiates or closes in the aggregate  
33 one hundred loans or less in the immediately preceding calendar year, seven  
34 hundred fifty dollars, and for a mortgage banker that negotiates or closes in  
35 the aggregate over one hundred loans in the immediately preceding calendar

1 year, one thousand two hundred fifty dollars. In addition, a mortgage banker  
2 shall pay two hundred fifty dollars for each branch office.

3 7. For a commercial mortgage banker, one thousand two hundred fifty  
4 dollars. In addition, a commercial mortgage banker shall pay two hundred  
5 fifty dollars for each branch office.

6 8. For a mortgage broker that negotiates or closes in the aggregate  
7 fifty loans or less in the immediately preceding calendar year, two hundred  
8 fifty dollars and for a mortgage broker that negotiates or closes in the  
9 aggregate more than fifty loans in the immediately preceding calendar year,  
10 five hundred dollars. In addition, a mortgage broker shall pay two hundred  
11 dollars for each branch office.

12 9. For a consumer lender, one thousand dollars plus two hundred  
13 dollars for each branch office.

14 10. For a money transmitter, five hundred dollars plus twenty-five  
15 dollars for each branch office and each authorized delegate to a maximum of  
16 two thousand five hundred dollars.

17 11. For a deferred presentment company, four hundred dollars. In  
18 addition, a deferred presentment company shall pay two hundred dollars for  
19 each branch office.

20 12. FOR A LOAN ORIGINATOR, AN AMOUNT TO BE DETERMINED BY THE  
21 SUPERINTENDENT.

22 13. FOR AN INACTIVE STATUS LOAN ORIGINATOR, AN AMOUNT TO BE DETERMINED  
23 BY THE SUPERINTENDENT.

24 14. FOR A LOAN ORIGINATOR LICENSE TRANSFER, AN AMOUNT TO BE DETERMINED  
25 BY THE SUPERINTENDENT.

26 D. The license, renewal or branch office permit fee for a premium  
27 finance company for each calendar year or part thereof shall not be less than  
28 one hundred dollars or more than three hundred dollars as set by the  
29 superintendent. If the license is issued or the branch office is opened  
30 after June 30 in any year, the fees shall not be less than fifty dollars or  
31 more than one hundred fifty dollars for that year.

1           Sec. 2. Heading change

2           The chapter heading of title 6, chapter 9, Arizona Revised Statutes, is  
3 changed from "MORTGAGE BROKERS AND MORTGAGE BANKERS" to "MORTGAGE BROKERS,  
4 MORTGAGE BANKERS AND LOAN ORIGINATORS".

5           Sec. 3. Section 6-901, Arizona Revised Statutes, is amended to read:

6           6-901. Definitions

7           In this article, unless the context otherwise requires:

8           1. "Affiliate" means an entity which directly or indirectly, through  
9 one or more intermediaries, controls, is controlled by or is under common  
10 control with the entity specified.

11           2. "Compensation" means anything of value or any benefit, including  
12 points, commissions, bonuses, referral fees, loan origination fees and other  
13 similar fees but excluding periodic interest resulting from the application  
14 of the note rate of interest to the outstanding principal balance remaining  
15 unpaid from time to time.

16           3. "CONTINUING EDUCATION UNIT" MEANS A FIFTY MINUTE PERIOD OF TIME IN  
17 A CONTINUING EDUCATION COURSE THAT RELATES TO THE MORTGAGE INDUSTRY OR TO  
18 MORTGAGE TRANSACTIONS, INCLUDING COURSES TAKEN TO MAINTAIN RECOGNIZED  
19 INDUSTRY DESIGNATIONS.

20           ~~3-~~ 4. "Investor" means a person who lends or invests money in  
21 mortgage loans.

22           ~~4-~~ 5. "License" means a license issued under this article.

23           ~~5-~~ 6. "Licensee" means a person licensed under this article.

24           7. "LOAN ORIGINATOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 6-991.

25           ~~6-~~ 8. "Mortgage broker" means a person who is not exempt under  
26 section 6-902 and who for compensation or in the expectation of compensation  
27 either directly or indirectly makes, negotiates or offers to make or  
28 negotiate a mortgage loan.

29           ~~7-~~ 9. "Mortgage loan" means a loan secured by a mortgage or deed of  
30 trust or any lien interest on real estate located in this state created with  
31 the consent of the owner of the real estate.

32           ~~8-~~ 10. "Mortgage loan closing" means the day by which all documents  
33 relating to the mortgage loan have been executed and recorded and all monies  
34 have been accounted for under the terms of the escrow instructions.

35           Sec. 4. Section 6-903, Arizona Revised Statutes, is amended to read:

6-903. Licensing of mortgage brokers required; qualifications; application; bond; fees; renewal

A. A person shall not act as a mortgage broker if ~~he~~ THE PERSON is not licensed under this article.

B. The superintendent shall not grant a mortgage broker's license to a person, other than a natural person, who is not registered to do business in this state on the date of granting the license. An applicant for an original mortgage broker's license shall:

1. Have not less than three years' experience as a mortgage broker, or equivalent lending experience in a related business during the five years immediately preceding the time of application.

2. Have satisfactorily completed a course of study approved by the superintendent during the three years immediately preceding the time of application.

3. Have passed a mortgage broker's test, pursuant to section 6-908, not more than one year before the granting of the license.

C. A person shall make an application for a license or for a renewal of a license in writing on the forms, in the manner and accompanied by the information prescribed by the superintendent. The superintendent may require additional information on the experience, background, honesty, truthfulness, integrity and competency of the applicant and any responsible individual designated by the applicant. If the applicant is a person other than a natural person, the superintendent may require information as to the honesty, truthfulness, integrity and competency of any officer, director, shareholder or other interested party of the association, corporation or group.

D. The nonrefundable application fee and annual renewal fee are as prescribed in section 6-126. The nonrefundable application fee shall accompany each application for an original license only. The superintendent shall deposit, pursuant to sections 35-146 and 35-147, the monies in the state general fund.

E. If a licensee is a person other than a natural person, the license issued to it entitles all officers, directors, members, partners, trustees and employees of the licensed corporation, partnership, association or trust to engage in the mortgage business if one officer, director, member, partner, employee or trustee of the person is designated in the license as the

1 individual responsible for the person under this article. If a licensee is a  
2 natural person, the license entitles all employees of the licensee to engage  
3 in the mortgage business. If the natural person is not a resident of this  
4 state, an employee of the licensee shall be designated in the license as the  
5 individual responsible for the licensee under the provisions of this article.  
6 For **THE** purposes of this subsection, an employee does not include an  
7 independent contractor. A responsible individual shall be a resident of this  
8 state, shall be in active management of the activities of the licensee  
9 governed by this article and shall meet the qualifications set forth in  
10 subsection B of this section for a licensee.

11 F. A licensee shall notify the superintendent that its responsible  
12 individual will cease to be in active management of the activities of the  
13 licensee within ten days of learning that fact. The licensee has ninety days  
14 after the notification is received by the superintendent within which to  
15 replace the responsible individual with a qualified replacement and to so  
16 notify the superintendent. If the license is not placed under active  
17 management of a qualified responsible individual and if notice is not given  
18 to the superintendent within the ninety day period, the license of the  
19 licensee expires.

20 G. Every person licensed as a mortgage broker shall deposit with the  
21 superintendent, before doing business as a mortgage broker, a bond executed  
22 by the licensee as principal and a surety company authorized to do business  
23 in this state as surety. The bond shall be conditioned on the faithful  
24 compliance of the licensee, including ~~his~~ **THE LICENSEE'S** directors, officers,  
25 members, partners, trustees and employees, with this article. The bond is  
26 payable to any person injured by the wrongful act, default, fraud or  
27 misrepresentation of the licensee or ~~his~~ **THE LICENSEE'S** employees and to this  
28 state for the benefit of the person injured. Only one bond is required for  
29 any person, firm, association or corporation irrespective of the number of  
30 officers, directors, members, partners or trustees who are employed by or are  
31 members of such firm, association or corporation. No suit may be commenced  
32 on the bond after the expiration of one year following the commission of the  
33 act on which the suit is based, except that claims for fraud or mistake are  
34 limited to the limitation period provided in section 12-543, paragraph 3. If  
35 an injured person commences an action for a judgment to collect from the

1 bond, the injured person shall notify the superintendent of the action in  
2 writing at the time of the commencement of the action and shall provide  
3 copies of all documents relating to the action to the superintendent on  
4 request.

5 H. The bond required by this section shall be ten thousand dollars for  
6 licensees whose investors are limited solely to institutional investors, and  
7 fifteen thousand dollars for licensees whose investors include any  
8 noninstitutional investors.

9 I. For THE purposes of subsection H of this section:

10 1. "Institutional investor" means a state or national bank, a state or  
11 federal savings and loan association, a state or federal savings bank, a  
12 state or federal credit union, a federal government agency or  
13 instrumentality, a quasi-federal government agency, a financial enterprise, a  
14 licensed real estate broker or salesman, a profit sharing or pension trust,  
15 or an insurance company.

16 2. "Investor" means any person who directly or indirectly provides TO  
17 A MORTGAGE BROKER funds ~~to a mortgage broker which funds~~ THAT are, or are  
18 intended to be, used in the making of a loan, and any person who purchases a  
19 loan, or any interest therein, from a mortgage broker or in a transaction  
20 that has been directly or indirectly arranged or negotiated by a mortgage  
21 broker.

22 J. Notwithstanding section 35-155, in lieu of the bond described in  
23 this section, an applicant for a license or a licensee may deposit with the  
24 superintendent a deposit in the form of cash or alternatives to cash in the  
25 same amount as the bond required under subsection G of this section. The  
26 superintendent may accept any of the following as an alternative to cash:

27 1. Certificates of deposits or investment certificates ~~which~~ THAT are  
28 payable or assigned to the state treasurer, issued by banks or savings banks  
29 doing business in this state and fully insured by the federal deposit  
30 insurance corporation or any successor institution.

31 2. Certificates of deposit, investment certificates or share accounts  
32 ~~which~~ THAT are payable or assigned to the state treasurer, issued by a  
33 savings and loan association doing business in this state and fully insured  
34 by the federal deposit insurance corporation or any successor institution.



1           3. Certificates of deposit, investment certificates or share accounts  
2 ~~which~~ THAT are payable or assigned to the state treasurer, issued by a credit  
3 union doing business in this state and fully insured by the national credit  
4 union administration or any successor institution.

5           K. The superintendent shall deposit the cash or alternatives to cash  
6 received under this section with the state treasurer. The state treasurer  
7 shall hold the cash or alternatives to cash in the name of this state to  
8 guarantee the faithful performance of all legal obligations of the person  
9 required to post bond pursuant to this section. The person is entitled to  
10 receive any accrued interest earned from the alternatives to cash. The state  
11 treasurer may impose a fee to reimburse the state treasurer for  
12 administrative expenses. The fee shall not exceed ten dollars for each cash  
13 or alternatives to cash deposit and shall be paid by the applicant or  
14 licensee. The state treasurer may prescribe rules relating to the terms and  
15 conditions of each type of security provided by this section.

16           L. In addition to such other terms and conditions as the  
17 superintendent prescribes by rule or order, the principal amount of the  
18 deposit shall be released only on written authorization of the superintendent  
19 or on the order of a court of competent jurisdiction. The principal amount  
20 of the deposit shall not be released before the expiration of three years  
21 from the first to occur of any of the following:

- 22           1. The date of substitution of a bond for a cash alternative.
- 23           2. The surrender of the license.
- 24           3. The revocation of the license.
- 25           4. The expiration of the license.

26           M. A licensee or an employee of the licensee shall not advertise for  
27 or solicit mortgage business in any manner without using the name and license  
28 number as issued on the mortgage broker's principal place of business  
29 license, except that a licensee may employ or refer to the commonly used name  
30 and any trademarks or service marks of any affiliate. If a license is issued  
31 in the name of a natural person, nothing in the advertising or solicitation  
32 may imply the license is in the name of another person or entity. For the  
33 ~~purpose~~ PURPOSES of this subsection, "advertise" does not include business  
34 cards, radio and television advertising directed at national or regional

1 markets and promotional items except if those items contain rates or terms on  
2 which a mortgage loan may be obtained.

3 N. A licensee shall not employ any person unless the licensee:

4 1. Conducts a reasonable investigation of the background, honesty,  
5 truthfulness, integrity and competency of the employee before hiring.

6 2. Keeps a record of the investigation for not less than two years  
7 after termination.

8 O. A license is not transferable or assignable and control of a  
9 licensee may not be acquired through a stock purchase or other device without  
10 the prior written consent of the superintendent. Written consent shall not  
11 be given if the superintendent finds that any of the grounds for denial,  
12 revocation or suspension of a license as set forth in section 6-905 are  
13 applicable to the acquiring person. For the ~~purpose~~ PURPOSES of this  
14 subsection, "control" means the power to vote more than twenty per cent of  
15 outstanding voting shares of a licensed corporation, partnership, association  
16 or trust.

17 P. The licensee is liable for any damage caused by any of ~~his~~ THE  
18 LICENSEE'S employees while acting as an employee of the licensee.

19 Q. A licensee shall comply with the requirements of section 6-114  
20 relating to balloon payments.

21 R. The examination and course of study requirements of this section  
22 shall be waived by the superintendent for any person applying for a license  
23 who, within the six months immediately prior to the submission of the  
24 application, has been a licensee or a responsible person pursuant to this  
25 chapter.

26 S. IF THE APPLICANT FOR RENEWAL OF A MORTGAGE BROKER LICENSE IS A  
27 NATURAL PERSON, THE APPLICANT SHALL HAVE SATISFACTORILY COMPLETED TWELVE  
28 CONTINUING EDUCATION UNITS BY A CONTINUING EDUCATION PROVIDER APPROVED BY THE  
29 SUPERINTENDENT BEFORE SUBMITTING THE RENEWAL APPLICATION. IF THE APPLICANT  
30 IS OTHER THAN A NATURAL PERSON, THE DESIGNATED RESPONSIBLE INDIVIDUAL SHALL  
31 HAVE SATISFACTORILY COMPLETED TWELVE CONTINUING EDUCATION UNITS BY A  
32 CONTINUING EDUCATION PROVIDER APPROVED BY THE SUPERINTENDENT BEFORE  
33 SUBMITTING THE RENEWAL APPLICATION.

34 T. A LICENSEE WHO EMPLOYS A LOAN ORIGINATOR SHALL COMPLY WITH SECTION  
35 6-991.03.

1           Sec. 5. Section 6-909, Arizona Revised Statutes, is amended to read:

2           6-909. Prohibited acts

3           A. Except for employment verifications, verifications of mortgages and  
4           loans, and deposit or account verifications, a person, in connection with or  
5           incidental to the making of any mortgage loan, shall not induce, require or  
6           permit any document to be signed by a party to the transaction if such  
7           document contains any blank spaces to be filled in after it has been signed,  
8           except that the party may specifically authorize the licensee or the escrow  
9           agent handling the transaction, in writing, to complete certain blank spaces.

10          B. A person is not entitled to receive compensation in connection with  
11          arranging for or negotiating a mortgage loan if such person is not licensed  
12          pursuant to this article. A mortgage broker shall not pay compensation to,  
13          contract with or employ as an independent contractor a person who is acting  
14          as a mortgage broker or mortgage banker but who is not licensed under this  
15          chapter.

16          C. A person engaged in the mortgage business shall not knowingly  
17          advertise, display, distribute, broadcast or televise, or cause or permit to  
18          be advertised, displayed, distributed, broadcast or televised, in any manner  
19          whatever, any false, misleading or deceptive statement or representation with  
20          regard to the rates, terms or conditions for a mortgage loan. The charges or  
21          rates of charge, if stated, shall be set forth in such manner as to prevent  
22          misunderstanding by prospective borrowers.

23          D. A mortgage broker shall not request or require a person seeking a  
24          mortgage loan on real property designed principally for the occupancy of from  
25          one to four families in an amount of two hundred thousand dollars or less to  
26          enter into an agreement ~~which~~ THAT prohibits the person from seeking the loan  
27          from another source.

28          E. A mortgage broker ~~shall not~~, except in good faith, ~~SHALL NOT~~ delay  
29          or cause delay in the closing of a loan that results in increased costs to a  
30          borrower.

31          F. A mortgage broker shall not record or cause to be recorded any  
32          document ~~which~~ THAT would give rise to liability under section 33-420.

33          G. A mortgage broker shall not, for compensation, either directly or  
34          indirectly make or negotiate or offer to make or negotiate a loan that is  
35          either:

- 1           1. Less than five thousand dollars.
- 2           2. Not secured by a mortgage or deed of trust or other lien interest  
3 in real property.
- 4           H. A person who is employed by a licensee to act in the capacity of a  
5 mortgage broker shall not be concurrently employed by any other licensee to  
6 act as a mortgage broker, except with the prior written approval of all the  
7 concurrently employing licensees.
- 8           I. A mortgage broker shall not collect compensation for rendering  
9 services as a real estate broker or real estate salesman unless both of the  
10 following apply:
- 11           1. The mortgage broker is licensed pursuant to title 32, chapter 20.
- 12           2. The mortgage broker has disclosed to the person from whom the  
13 compensation is collected that the mortgage broker is receiving compensation  
14 both for mortgage broker services, if applicable, and for real estate broker  
15 or real estate salesman services.
- 16           J. A licensee shall not accept any assignment of the borrower's wages  
17 or salary in connection with activities governed by this article.
- 18           K. A mortgage broker shall not receive or disburse monies in servicing  
19 or arranging a mortgage loan except as provided in section 6-906,  
20 subsection C.
- 21           L. A mortgage broker shall not make a false promise or  
22 misrepresentation or conceal an essential or material fact in the course of  
23 the mortgage broker business.
- 24           M. A mortgage broker shall not fail to truthfully account for the  
25 monies belonging to a party to a mortgage loan transaction or fail to  
26 disburse monies in accordance with his agreements.
- 27           N. A mortgage broker shall not engage in illegal or improper business  
28 practices.
- 29           O. A mortgage broker shall not record a mortgage or deed of trust if  
30 monies are not available for the immediate disbursement to the mortgagor unless,  
31 before that recording, the mortgage broker informs the mortgagor in writing  
32 of a definite date by which payment shall be made and obtains the mortgagor's  
33 written permission for the delay.
- 34           P. A mortgage broker shall not require a person seeking a loan secured  
35 by real property to obtain property insurance coverage in an amount that

1 exceeds the replacement cost of the improvements as established by the  
2 property insurer.

3 Q. A MORTGAGE BROKER MUST REASONABLY SUPERVISE THE ACTIVITIES OF A  
4 LOAN ORIGINATOR WHO IS LICENSED PURSUANT TO ARTICLE 4 OF THIS CHAPTER AND WHO  
5 IS EMPLOYED BY THE MORTGAGE BROKER.

6 Sec. 6. Section 6-943, Arizona Revised Statutes, is amended to read:

7 6-943. Licensing of mortgage bankers required; qualifications;  
8 application; bond; fees; renewal

9 A. A person shall not act as a mortgage banker if he is not licensed  
10 under this article.

11 B. The superintendent shall not grant a mortgage banker's license to a  
12 person, other than a natural person, who is not registered to do business in  
13 this state on the date of application for a license. The superintendent  
14 shall not issue a mortgage banker's license or a renewal of a license to an  
15 applicant unless the applicant meets all of the requirements prescribed in  
16 subsection C of this section. The superintendent shall determine whether the  
17 applicant meets the requirements based on the application, and evidence  
18 presented at a hearing, if any, or any other evidence that the superintendent  
19 may have regarding qualifications of the applicant.

20 C. In order to qualify for a mortgage banker license or a renewal of a  
21 license an applicant shall:

22 1. Have not fewer than three years' experience in the business of  
23 making mortgage banking loans or equivalent lending experience in a related  
24 business. If the applicant is a person other than a natural person, the  
25 responsible individual shall meet this requirement.

26 2. Have engaged or intend to engage in the business of making mortgage  
27 loans or mortgage banking loans.

28 3. Either:

29 (a) Be authorized to do business with any of the following:

30 (i) The federal housing administration.

31 (ii) The veterans administration.

32 (iii) The federal national mortgage association.

33 (iv) The federal home loan mortgage corporation.

34 (b) Notwithstanding paragraph 5 of this subsection, at all times have  
35 and maintain a net worth of not less than two hundred fifty thousand dollars.

1           4. Provide the superintendent with a current audited financial  
2 statement or that of its parent company prepared by an independent certified  
3 public accountant in accordance with generally accepted accounting principles  
4 including:

5           (a) The certified public accountant's opinion as to the fairness of  
6 the presentation in conformity with generally accepted accounting principles.

7           (b) A balance sheet prepared within the previous six months and  
8 certified by the licensee. The superintendent may require a more recent  
9 balance sheet.

10          (c) A statement of operations and retained earnings and a statement of  
11 changes in financial position provided the applicant has commenced  
12 operations.

13          (d) Notes to the financial statement if applicable.

14          5. At all times have and maintain a net worth of not less than one  
15 hundred thousand dollars.

16          D. A person shall make an application for a license or for a renewal  
17 of a license in writing on the forms, in the manner and accompanied by the  
18 information prescribed by the superintendent including the requirements  
19 prescribed in subsection C of this section. The superintendent may require  
20 additional information on the experience, background, honesty, truthfulness,  
21 integrity and competency of the applicant and any responsible individual  
22 designated by the applicant. If the applicant is a person other than a  
23 natural person, the superintendent may require information as to the honesty,  
24 truthfulness, integrity and competency of any officer, director, shareholder,  
25 member, partner, trustee, employee or other interested party of the  
26 association, corporation or group.

27          E. The nonrefundable application fee and annual renewal fee shall be  
28 as prescribed in section 6-126. The nonrefundable application fee shall  
29 accompany each application for an original license only.

30          F. If a licensee is a person other than a natural person, the license  
31 issued to it entitles all officers, directors, members, partners, trustees  
32 and employees of the licensed corporation, partnership, association or trust  
33 to engage in the mortgage banking business if one officer, director, member,  
34 partner, employee or trustee of the person is designated in the license as  
35 the individual responsible for the person under this article. If a licensee

1 is a natural person, the license entitles all employees of the licensee to  
2 engage in the mortgage banking business. If the natural person is not a  
3 resident of this state, an employee of the licensee shall be designated in  
4 the license as the individual responsible for the licensee under ~~the~~  
5 ~~provisions of~~ this article. For the purposes of this article an employee  
6 does not include an independent contractor. For the purposes of this  
7 article, a responsible individual shall be a resident of this state, shall be  
8 in active management of the activities of the licensee governed by this  
9 article and shall have not less than three years' experience in the business  
10 of making mortgage banking loans or equivalent experience in a related  
11 business.

12 G. A licensee shall notify the superintendent that its responsible  
13 individual will cease to be in active management of the licensee within ten  
14 days of learning that fact. Not more than ninety days after the  
15 superintendent receives the notice, the licensee shall place itself under the  
16 active management of a qualified responsible person and notify the  
17 superintendent. If the licensee is not placed under active management of a  
18 qualified responsible individual and if notice is not received by the  
19 superintendent within the ninety day period, the license of the licensee  
20 expires.

21 H. Every person licensed as a mortgage banker shall deposit with the  
22 superintendent, before doing business as a mortgage banker, a bond executed  
23 by the licensee as principal and a surety company authorized to do business  
24 in this state as surety. The bond shall be conditioned on the faithful  
25 compliance of the licensee, including his directors, officers, members,  
26 partners, trustees and employees, with this article. Only one bond is  
27 required for a person, firm, association or corporation irrespective of the  
28 number of officers, directors, members, partners or trustees who are employed  
29 by or are members of the firm, association or corporation. The bond is  
30 payable to any person injured by the wrongful act, default, fraud or  
31 misrepresentation of the licensee and to this state for the benefit of any  
32 injured person. The coverage shall be maintained in the minimum amount  
33 prescribed in this subsection, computed on a base consisting of the total  
34 assets of the licensee plus the unpaid balance of loans which it has  
35 contracted to service for others as of the end of the licensee's fiscal year.

| Base                          | Minimum Bond  |
|-------------------------------|---|
| Not over \$1,000,000          | \$25,000 for the first \$500,000 plus<br>\$5,000 for each \$100,000 or fraction<br>thereof over \$500,000 |
| \$1,000,001 to \$10,000,000   | \$50,000 plus \$5,000 for each \$1,800,000<br>or fraction thereof over \$1,000,000                        |
| \$10,000,001 to \$100,000,000 | \$75,000 plus \$5,000 for each \$18,000,000<br>or fraction thereof over \$10,000,000                      |
| \$100,000,001 and over        | \$100,000   |

No suit may be commenced on the bond after the expiration of one year following the commission of the act on which the suit is based, except that claims for fraud or mistake are limited to the limitation period provided in section 12-543, paragraph 3. If any injured person commences an action for a judgment to collect on the bond, the injured person shall notify the superintendent of the action in writing at the time of the commencement of the action and shall provide copies of all documents relating to the action to the superintendent on request.

I. Notwithstanding subsection H of this section, the bond required shall be twenty-five thousand dollars for licensees whose investors are limited solely to institutional investors.

J. For purposes of subsection I of this section:

1. "Institutional investor" means a state or national bank, a state or federal savings and loan association, a state or federal savings bank, a state or federal credit union, a federal government agency or instrumentality, a quasi-federal government agency, a financial enterprise, a licensed real estate broker or salesman, a profit sharing or pension trust, or an insurance company.

2. "Investor" means any person who directly or indirectly provides funds to a mortgage banker which funds are, or are intended to be, used in the making of a loan, and any person who purchases a loan, or any interest therein, from a mortgage banker or in a transaction that has been directly or indirectly arranged or negotiated by a mortgage banker.

K. Notwithstanding section 35-155, in lieu of the bond described in this section, an applicant for a license or a licensee may deposit with the superintendent a deposit in the form of cash or alternatives to cash in the



1 amount prescribed in subsection H or I of this section, as applicable. The  
2 superintendent may accept any of the following as an alternative to cash:

3 1. Certificates of deposit or investment certificates which are  
4 payable or assigned to the state treasurer, issued by banks or savings banks  
5 doing business in this state and fully insured by the federal deposit  
6 insurance corporation or any successor institution.

7 2. Certificates of deposit, investment certificates or share accounts  
8 which are payable or assigned to the state treasurer, issued by a savings and  
9 loan association doing business in this state and fully insured by the  
10 federal deposit insurance corporation or any successor institution.

11 3. Certificates of deposit, investment certificates or share accounts  
12 which are payable or assigned to the state treasurer, issued by a credit  
13 union doing business in this state and fully insured by the national credit  
14 union administration or any successor institution.

15 L. The superintendent shall deposit the cash or alternatives to cash  
16 received under this section with the state treasurer. The state treasurer  
17 shall hold the cash or alternatives to cash in the name of this state to  
18 guarantee the faithful performance of all legal obligations of the person  
19 required to post bond pursuant to this section. The person is entitled to  
20 receive any accrued interest earned from the alternatives to cash. The state  
21 treasurer may impose a fee to reimburse the state treasurer for  
22 administrative expenses. The fee shall not exceed ten dollars for each cash  
23 or alternatives to cash deposit and shall be paid by the applicant or  
24 licensee. The state treasurer may prescribe rules relating to the terms and  
25 conditions of each type of security provided by this section.

26 M. In addition to such other terms and conditions as the  
27 superintendent prescribes by rule or order, the principal amount of the  
28 deposit shall be released only on written authorization of the superintendent  
29 or on the order of a court of competent jurisdiction. The principal amount  
30 of the deposit shall not be released before the expiration of three years  
31 from the first to occur of any of the following:

- 32 1. The date of substitution of a bond for a cash alternative.
- 33 2. The surrender of the license.
- 34 3. The revocation of the license.
- 35 4. The expiration of the license.

1           N. A licensee or an employee of the licensee shall not advertise for  
2 or solicit mortgage banking business in any manner without using the name and  
3 license number as issued on the mortgage banker's principal place of business  
4 license, except that a licensee may also employ or refer to the commonly used  
5 name and any trademarks or service marks of any affiliate. If a license is  
6 issued in the name of a natural person, nothing in the advertising or  
7 solicitation may imply that the license is in the name of another person or  
8 entity. For the ~~purpose~~ PURPOSES of this subsection, ~~"advertise"~~ does not  
9 include business cards, radio and television advertising directed at national  
10 or regional markets and promotional items except if those items contain rates  
11 or terms on which a mortgage loan or mortgage banking loan may be obtained.

12           O. A licensee shall not employ any person unless the licensee:  
13           1. Conducts a reasonable investigation of the background, honesty,  
14 truthfulness, integrity and competency of the employee before hiring.  
15           2. Keeps a record of the investigation for not less than two years  
16 after termination.

17           P. The licensee is liable for any damage caused by any of his  
18 employees while engaged in the business of making mortgage loans or mortgage  
19 banking loans.

20           Q. A licensee shall comply with the requirements of section 6-114  
21 relating to balloon payments.

22           R. Notwithstanding subsection C, paragraph 4 of this section,  
23 licensees and applicants whose own resources are derived exclusively from  
24 correspondent contracts between mortgage bankers and banks, savings banks,  
25 trust companies, savings and loan associations, credit unions, profit sharing  
26 or pension trusts, consumer lenders or insurance companies shall provide the  
27 superintendent with a current financial statement or that of its parent  
28 company prepared in accordance with generally accepted accounting principles  
29 including:

30           1. A balance sheet prepared within the previous six months and  
31 certified by the licensee. The superintendent may require a more recent  
32 balance sheet.

33           2. A statement of operations and retained earnings and a statement of  
34 changes in financial position provided the applicant has commenced  
35 operations.

1           3. Notes to the financial statement if applicable.

2           S. In addition to the grounds specified in section 6-945, subsection  
3 A, failure of a licensee to operate the business of making mortgage loans or  
4 mortgage banking loans for a continuous period of twelve months or more shall  
5 constitute grounds for revocation of such license. The superintendent, upon  
6 good cause shown, may extend the time for operating such business for a  
7 single fixed period which shall not exceed twelve months.

8           T. IF THE APPLICANT FOR RENEWAL OF A MORTGAGE BANKER LICENSE IS A  
9 NATURAL PERSON, THE APPLICANT SHALL HAVE SATISFACTORILY COMPLETED TWELVE  
10 CONTINUING EDUCATION UNITS BY A CONTINUING EDUCATION PROVIDER APPROVED BY THE  
11 SUPERINTENDENT BEFORE SUBMITTING THE RENEWAL APPLICATION. IF THE APPLICANT  
12 IS OTHER THAN A NATURAL PERSON, THE DESIGNATED RESPONSIBLE INDIVIDUAL SHALL  
13 HAVE SATISFACTORILY COMPLETED TWELVE CONTINUING EDUCATION UNITS BY A  
14 CONTINUING EDUCATION PROVIDER APPROVED BY THE SUPERINTENDENT BEFORE  
15 SUBMITTING THE RENEWAL APPLICATION.

16           U. A LICENSEE WHO EMPLOYS A LOAN ORIGINATOR SHALL COMPLY WITH SECTION  
17 6-991.03.

18           Sec. 7. Section 6-947, Arizona Revised Statutes, is amended to read:

19           6-947. Prohibited acts

20           A. Except for employment verifications and deposit or account  
21 verifications, a person in connection with or incidental to the making of any  
22 mortgage banking loan or mortgage loan shall not induce, require or permit  
23 any document to be signed by a party to the transaction if the document  
24 contains any blank spaces to be filled in after it has been signed, except  
25 that the party may specifically authorize the licensee or the escrow agent  
26 handling the transaction, in writing, to complete blank spaces in certain  
27 documents.

28           B. A person is not entitled to receive compensation in connection with  
29 arranging for or negotiating a mortgage banking loan or mortgage loan if the  
30 person is not licensed pursuant to this article. A mortgage banker shall not  
31 pay compensation to, contract with or employ as an independent contractor a  
32 person who is acting as a mortgage broker or mortgage banker but who is not  
33 licensed under this chapter.

34           C. A mortgage banker may not commingle monies of borrowers or monies  
35 held for the benefit of borrowers with monies of the mortgage banker.

1           D. A person engaged in the mortgage banking business shall not  
2 knowingly advertise, display, distribute, broadcast or televise, or cause or  
3 permit to be advertised, displayed, distributed, broadcast or televised, in  
4 any manner whatever, any false, misleading or deceptive statement or  
5 representation with regard to the rates, terms or conditions for a mortgage  
6 banking loan or mortgage loan. The charges or rates of charge, if stated,  
7 shall be set forth in a clear and concise manner.

8           E. A mortgage banker shall not request or require a person seeking a  
9 mortgage banking loan or mortgage loan, on real property designed principally  
10 for the occupancy of from one to four families, in an amount of two hundred  
11 thousand dollars or less to enter into an agreement which prohibits the  
12 person from seeking the loan from another source.

13           F. A mortgage banker shall not, except in good faith, delay or cause  
14 delay in the closing of a loan that results in increased costs to a borrower.

15           G. A mortgage banker shall not record or cause to be recorded any  
16 document which would give rise to liability under section 33-420.

17           H. A person who is employed by a licensee to act in the capacity of a  
18 mortgage banker shall not be concurrently employed by any other licensee to  
19 act in the capacity of a mortgage banker, except with the prior written  
20 approval of all such concurrently employing licensees.

21           I. A mortgage banker shall not collect compensation for rendering  
22 services as a real estate broker or real estate salesman unless both of the  
23 following apply:

24               1. The mortgage banker is licensed pursuant to title 32, chapter 20.

25               2. The mortgage banker has disclosed to the person from whom the  
26 compensation is collected that the mortgage banker is receiving compensation  
27 both for mortgage banker services, if applicable, and for real estate broker  
28 or real estate salesman services.

29           J. A licensee shall not accept any assignment of the borrower's wages  
30 or salary in connection with activities governed by this article.

31           K. A mortgage banker shall not, for compensation, either directly or  
32 indirectly make or negotiate or offer to make or negotiate a loan of money in  
33 an amount of ten thousand dollars or less that is not secured by a mortgage  
34 or deed of trust or other lien interest in real property.

1 L. A mortgage banker shall not make a false promise or  
2 misrepresentation or conceal an essential or material fact in the course of  
3 the mortgage banker business.

4 M. A mortgage banker shall not fail to truthfully account for the  
5 monies belonging to a party to a mortgage loan or mortgage banking loan  
6 transaction or fail to disburse monies in accordance with his agreements.

7 N. A mortgage banker shall not record a mortgage or deed of trust if  
8 monies are not available for the immediate disbursement to the mortgagor unless,  
9 before that recording, the mortgage banker informs the mortgagor in writing  
10 of a definite date by which payment shall be made and obtains the mortgagor's  
11 written permission for the delay.

12 O. A mortgage banker shall not require a person seeking a loan secured  
13 by real property to obtain property insurance coverage in an amount that  
14 exceeds the replacement cost of the improvements as established by the  
15 property insurer.

16 P. A MORTGAGE BANKER MUST REASONABLY SUPERVISE THE ACTIVITIES OF A  
17 LOAN ORIGINATOR WHO IS LICENSED PURSUANT TO ARTICLE 4 OF THIS CHAPTER AND WHO  
18 IS EMPLOYED BY THE MORTGAGE BANKER.

19 Sec. 8. Title 6, chapter 9, Arizona Revised Statutes, is amended by  
20 adding article 4, to read:

21 ARTICLE 4. LOAN ORIGINATORS

22 6-991. Definitions

23 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

24 1. "ADMINISTRATIVE OR CLERICAL TASKS" MEANS THE RECEIPT, COLLECTION  
25 AND DISTRIBUTION OF INFORMATION COMMON FOR THE PROCESSING OF A LOAN IN THE  
26 MORTGAGE INDUSTRY OR COMMUNICATION WITH A BORROWER TO OBTAIN INFORMATION  
27 NECESSARY FOR THE PROCESSING OF A LOAN. ADMINISTRATIVE OR CLERICAL TASKS DO  
28 NOT INCLUDE HOLDING ONESELF OUT TO THE PUBLIC AS ABLE TO OBTAIN A LOAN.

29 2. "AFFILIATE" MEANS AN ENTITY THAT DIRECTLY OR INDIRECTLY, THROUGH  
30 INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH  
31 THE ENTITY SPECIFIED.

32 3. "CONTINUING EDUCATION UNIT" MEANS A FIFTY MINUTE PERIOD OF TIME IN  
33 A CONTINUING EDUCATION COURSE THAT RELATES TO THE MORTGAGE INDUSTRY OR TO  
34 MORTGAGE TRANSACTIONS, INCLUDING COURSES TAKEN TO MAINTAIN RECOGNIZED  
35 INDUSTRY DESIGNATIONS.

1           4. "LICENSE" MEANS A LICENSE ISSUED UNDER THIS ARTICLE.

2           5. "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE.

3           6. "LOAN ORIGINATOR":

4           (a) MEANS A NATURAL PERSON EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE  
5 BANKER WHO EITHER TAKES A RESIDENTIAL MORTGAGE LOAN APPLICATION FOR A  
6 MORTGAGE BROKER OR MORTGAGE BANKER TO OBTAIN A THIRD PARTY LENDER OR OFFERS  
7 OR NEGOTIATES TERMS OF A MORTGAGE LOAN FOR DIRECT OR INDIRECT COMPENSATION OR  
8 GAIN OR IN THE EXPECTATION OF DIRECT OR INDIRECT COMPENSATION OR GAIN.

9           (b) INCLUDES A PERSON WHO HOLDS HIMSELF OUT TO THE PUBLIC AS ABLE TO  
10 PERFORM ANY OF THESE ACTIVITIES.

11           (c) DOES NOT MEAN A PERSON WHO PERFORMS PURELY ADMINISTRATIVE OR  
12 CLERICAL TASKS AND WHO IS EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE BANKER.

13           7. "MORTGAGE BANKER" MEANS A PERSON WHO IS LICENSED PURSUANT TO  
14 ARTICLE 2 OF THIS CHAPTER.

15           8. "MORTGAGE BROKER" MEANS A PERSON WHO IS LICENSED PURSUANT TO  
16 ARTICLE 1 OF THIS CHAPTER.

17           9. "MORTGAGE LOAN" MEANS A LOAN SECURED BY A MORTGAGE OR DEED OF TRUST  
18 OR ANY LIEN INTEREST ON REAL ESTATE LOCATED IN THIS STATE ESTABLISHED WITH  
19 THE CONSENT OF THE OWNER OF THE REAL ESTATE.

20           6-991.01. Exemptions

21           THIS ARTICLE DOES NOT APPLY TO:

22           1. A NATURAL PERSON EMPLOYED BY A PERSON WHO DOES BUSINESS UNDER ANY  
23 OTHER LAW OF THIS STATE, OR LAW OF ANOTHER STATE WHILE REGULATED BY AN  
24 AGENCY OF THE OTHER STATE OR THE UNITED STATES, RELATING TO BANKS, SAVINGS  
25 BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, PROFIT SHARING AND  
26 PENSION TRUSTS, CREDIT UNIONS, INSURANCE COMPANIES OR CONSUMER LENDERS, OR  
27 RECEIVERSHIPS, INCLUDING DIRECTLY OR INDIRECTLY MAKING, NEGOTIATING OR  
28 OFFERING TO MAKE OR NEGOTIATE A MORTGAGE LOAN, IF THE MORTGAGE TRANSACTIONS  
29 ARE REGULATED BY THE OTHER LAW OR ARE UNDER THE JURISDICTION OF A COURT.  
30 EMPLOYEES OF SUBSIDIARIES AND SERVICE CORPORATIONS OF THESE INSTITUTIONS ARE  
31 EXEMPT AND ARE NOT SUBJECT TO THIS ARTICLE IF PREEMPTED BY FEDERAL LAW.

32           2. A PERSON WHO IS LICENSED PURSUANT TO ARTICLE 1, 2 OR 3 OF THIS  
33 CHAPTER.

1           3. A PERSON WHO IS A RESPONSIBLE INDIVIDUAL AS DESCRIBED IN SECTION  
2 6-903 AND WHO DOES NOT ACT AS A LOAN ORIGINATOR PURSUANT TO ARTICLE 1, 2 OR 3  
3 OF THIS CHAPTER.

4           4. AN EMPLOYEE OF A COMMERCIAL MORTGAGE BANKER LICENSED PURSUANT TO  
5 ARTICLE 3 OF THIS CHAPTER.

6           5. AN EMPLOYEE OF A PERSON LICENSED PURSUANT TO THIS CHAPTER IF THE  
7 LICENSEE AFFIRMS IN WRITING TO THE SUPERINTENDENT THAT THE LICENSEE WILL NOT  
8 MAKE OR NEGOTIATE A MORTGAGE LOAN THAT HAS SECURITY IN THE FORM OF A  
9 RESIDENTIAL DWELLING OF ONE TO FOUR UNITS.

10          6. A PERSON WHO, AS SELLER OF REAL PROPERTY, RECEIVES ONE OR MORE  
11 MORTGAGES OR DEEDS OF TRUST AS SECURITY FOR A PURCHASE MONEY OBLIGATION.

12          7. ANY ENTITY SUBJECT TO REGULATION AND SUPERVISION BY A FEDERAL  
13 BANKING AGENCY, AND ANY OPERATING SUBSIDIARY OR AFFILIATE OF THE FORGOING,  
14 INCLUDING ANY EMPLOYEE OR EXCLUSIVE AGENT OF ANY SUCH ENTITY.

15           6-991.02. Prohibited acts

16           BEGINNING JANUARY 1, 2010:

17           1. A LOAN ORIGINATOR ACTING ON THE LOAN ORIGINATOR'S OWN BEHALF SHALL  
18 NOT ACCEPT ANY MONIES OR DOCUMENTS IN CONNECTION WITH AN APPLICATION FOR A  
19 MORTGAGE LOAN.

20           2. A PERSON IS NOT ENTITLED TO RECEIVE COMPENSATION IN CONNECTION WITH  
21 ARRANGING FOR OR NEGOTIATING A MORTGAGE LOAN IF THE PERSON IS NOT LICENSED  
22 PURSUANT TO THIS CHAPTER. NOTWITHSTANDING SECTION 6-984, SUBSECTION B, A  
23 LOAN ORIGINATOR SHALL NOT PAY COMPENSATION TO, CONTRACT WITH OR EMPLOY AS AN  
24 INDEPENDENT CONTRACTOR A PERSON WHO IS ACTING AS A LOAN ORIGINATOR, MORTGAGE  
25 BROKER, MORTGAGE BANKER OR COMMERCIAL MORTGAGE BANKER BUT WHO IS NOT LICENSED  
26 UNDER THIS CHAPTER.

27           3. A LOAN ORIGINATOR ACTING ON THE LOAN ORIGINATOR'S OWN BEHALF SHALL  
28 NOT ADVERTISE, DISPLAY, DISTRIBUTE, BROADCAST OR TELEVIEW, OR CAUSE OR PERMIT  
29 TO BE ADVERTISED, DISPLAYED, DISTRIBUTED, BROADCAST OR TELEVIEWED, IN ANY  
30 MANNER, ANY SOLICITATION OF MORTGAGE BUSINESS.

31           4. A LOAN ORIGINATOR SHALL NOT MAKE, NEGOTIATE OR OFFER TO MAKE OR  
32 NEGOTIATE FOR COMPENSATION, EITHER DIRECTLY OR INDIRECTLY, A LOAN THAT IS  
33 EITHER:

34           (a) LESS THAN FIVE THOUSAND DOLLARS.

1           (b) NOT SECURED BY A MORTGAGE OR DEED OF TRUST OR OTHER LIEN INTEREST  
2           IN REAL PROPERTY.

3           5. A LOAN ORIGINATOR WHO IS EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE  
4           BANKER TO ACT IN THE CAPACITY OF THE MORTGAGE BROKER OR MORTGAGE BANKER SHALL  
5           NOT BE EMPLOYED CONCURRENTLY BY ANY OTHER MORTGAGE BROKER OR MORTGAGE BANKER.

6           6. A LOAN ORIGINATOR SHALL NOT COLLECT COMPENSATION FOR RENDERING  
7           SERVICES AS A REAL ESTATE BROKER OR REAL ESTATE SALESPERSON LICENSED PURSUANT  
8           TO TITLE 32, CHAPTER 20 UNLESS BOTH OF THE FOLLOWING APPLY:

9           (a) THE LOAN ORIGINATOR IS LICENSED PURSUANT TO TITLE 32, CHAPTER 20.

10          (b) THE EMPLOYING MORTGAGE BROKER OR MORTGAGE BANKER HAS DISCLOSED TO  
11          THE PERSON FROM WHOM THE COMPENSATION IS COLLECTED AT THE TIME A MORTGAGE  
12          LOAN APPLICATION IS RECEIVED THAT THE LOAN ORIGINATOR IS RECEIVING  
13          COMPENSATION BOTH FOR MORTGAGE BROKER OR MORTGAGE BANKER SERVICES, IF  
14          APPLICABLE, AND FOR REAL ESTATE BROKER OR REAL ESTATE SALESPERSON SERVICES.

15          7. A LOAN ORIGINATOR SHALL NOT ACCEPT ANY ASSIGNMENT OF THE BORROWER'S  
16          WAGES OR SALARY IN CONNECTION WITH ACTIVITIES GOVERNED BY THIS ARTICLE.

17          8. A LOAN ORIGINATOR SHALL NOT RECEIVE OR DISBURSE MONIES IN SERVICING  
18          OR ARRANGING A MORTGAGE LOAN.

19          9. A LOAN ORIGINATOR SHALL NOT MAKE A FALSE PROMISE OR  
20          MISREPRESENTATION OR CONCEAL AN ESSENTIAL OR MATERIAL FACT IN THE COURSE OF  
21          THE MORTGAGE BROKER OR MORTGAGE BANKER BUSINESS.

22          10. A LOAN ORIGINATOR SHALL NOT FAIL TO TRUTHFULLY ACCOUNT FOR THE  
23          MONIES BELONGING TO A PARTY TO A MORTGAGE LOAN TRANSACTION OR FAIL TO  
24          DISBURSE MONIES IN ACCORDANCE WITH THE EMPLOYING MORTGAGE BROKER OR MORTGAGE  
25          BANKER AGREEMENTS.

26          11. A LOAN ORIGINATOR SHALL NOT ENGAGE IN ILLEGAL OR IMPROPER BUSINESS  
27          PRACTICES.

28          12. A LOAN ORIGINATOR SHALL NOT REQUIRE A PERSON SEEKING A LOAN SECURED  
29          BY REAL PROPERTY TO OBTAIN PROPERTY INSURANCE COVERAGE IN AN AMOUNT THAT  
30          EXCEEDS THE REPLACEMENT COST OF THE IMPROVEMENTS AS ESTABLISHED BY THE  
31          PROPERTY INSURER.

32          13. A LOAN ORIGINATOR SHALL NOT ORIGINATE A MORTGAGE LOAN UNLESS  
33          EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE BANKER.



1           6-991.03. Licensing; renewal; qualifications; application; fees

2           A. BEGINNING JANUARY 1, 2010, A NATURAL PERSON SHALL NOT ACT AS A LOAN  
3 ORIGINATOR UNLESS LICENSED UNDER THIS ARTICLE.

4           B. BEGINNING JANUARY 1, 2010, THE SUPERINTENDENT SHALL NOT GRANT A  
5 LOAN ORIGINATOR LICENSE TO A PERSON, OTHER THAN A NATURAL PERSON. AN  
6 APPLICANT FOR AN ORIGINAL LOAN ORIGINATOR'S LICENSE SHALL HAVE DONE BOTH OF  
7 THE FOLLOWING:

8           1. SATISFACTORILY COMPLETED A COURSE OF STUDY FOR LOAN ORIGINATORS  
9 APPROVED BY THE SUPERINTENDENT DURING THE YEAR IMMEDIATELY PRECEDING THE TIME  
10 OF APPLICATION. THIS PARAGRAPH DOES NOT APPLY IF A PERSON PROVES  
11 SATISFACTORILY TO THE DEPARTMENT THAT THE PERSON HAS AT LEAST THREE YEARS OF  
12 LOAN ORIGINATOR EXPERIENCE THAT IS IMMEDIATELY PRECEDING THE TIME OF  
13 APPLICATION.

14           2. PASSED A LOAN ORIGINATOR'S EXAMINATION PURSUANT TO SECTION 6-991.07  
15 NOT MORE THAN ONE YEAR BEFORE THE GRANTING OF THE LICENSE.

16           C. A PERSON SHALL MAKE AN APPLICATION FOR A LICENSE OR RENEWAL OF A  
17 LICENSE IN WRITING IN THE MANNER PRESCRIBED BY THE SUPERINTENDENT AND  
18 ACCOMPANIED BY THE INFORMATION PRESCRIBED BY THE SUPERINTENDENT.

19           D. BEGINNING JANUARY 1, 2010, AN APPLICANT FOR RENEWAL OF A LOAN  
20 ORIGINATOR LICENSE SHALL HAVE SATISFACTORILY COMPLETED SIX CONTINUING  
21 EDUCATION UNITS BEFORE SUBMITTING THE RENEWAL APPLICATION.

22           E. THE NONREFUNDABLE APPLICATION FEE SHALL ACCOMPANY EACH APPLICATION  
23 FOR AN ORIGINAL LOAN ORIGINATOR LICENSE ONLY.

24           F. A LOAN ORIGINATOR SHALL NOT ADVERTISE FOR OR SOLICIT MORTGAGE  
25 BUSINESS IN ANY MANNER WITHOUT USING THE NAME AND LICENSE NUMBER AS ISSUED ON  
26 THE EMPLOYING MORTGAGE BROKER'S OR MORTGAGE BANKER'S PRINCIPAL PLACE OF  
27 BUSINESS LICENSE AND WITHOUT THE APPROVAL OF THE EMPLOYING MORTGAGE BROKER OR  
28 MORTGAGE BANKER.

29           G. A LICENSE ISSUED PURSUANT TO THIS ARTICLE IS NOT TRANSFERABLE OR  
30 ASSIGNABLE.

31           6-991.04. Issuance of license; notice from employing mortgage  
32 broker or mortgage banker; renewal; inactive  
33 status; address change; fee

34           A. THE SUPERINTENDENT, ON DETERMINING THAT AN APPLICANT IS QUALIFIED  
35 AND HAS PAID THE REQUIRED FEES, SHALL ISSUE A LOAN ORIGINATOR'S LICENSE TO

1 THE APPLICANT EVIDENCED BY A CONTINUOUS CERTIFICATE. THE SUPERINTENDENT  
2 SHALL GRANT OR DENY A LICENSE WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING  
3 THE COMPLETED APPLICATION AND FEES. AN APPLICANT WHO HAS BEEN DENIED A  
4 LICENSE MAY NOT REAPPLY FOR A LICENSE BEFORE ONE YEAR FROM THE DATE OF THE  
5 PREVIOUS APPLICATION.

6 B. ON ISSUANCE OF THE LICENSE, THE SUPERINTENDENT SHALL KEEP THE LOAN  
7 ORIGINATOR'S LICENSE UNTIL A MORTGAGE BROKER OR MORTGAGE BANKER LICENSED  
8 PURSUANT TO THIS CHAPTER EMPLOYS THE LOAN ORIGINATOR AND THE EMPLOYER  
9 PROVIDES A WRITTEN NOTICE THAT THE EMPLOYER HAS HIRED THE LOAN ORIGINATOR.  
10 THE EMPLOYER SHALL PROVIDE THE NOTICE BEFORE THE LOAN ORIGINATOR BEGINS  
11 WORKING FOR THE EMPLOYER. THE NOTICE SHALL BE FROM AN OFFICER OR OTHER  
12 PERSON AUTHORIZED BY THE EMPLOYER. THE NOTICE SHALL CONTAIN A REQUEST FOR  
13 THE LOAN ORIGINATOR'S LICENSE AND SHALL BE DATED, SIGNED AND NOTARIZED. ON  
14 RECEIPT OF THE REQUEST, THE SUPERINTENDENT SHALL FORWARD THE LOAN  
15 ORIGINATOR'S LICENSE TO THE EMPLOYING MORTGAGE BROKER OR MORTGAGE BANKER.

16 C. LICENSES SHALL BE ISSUED FOR A ONE YEAR PERIOD.

17 D. A LOAN ORIGINATOR SHALL MAKE APPLICATION FOR RENEWAL ON FORMS  
18 PRESCRIBED BY THE SUPERINTENDENT. THE APPLICATION SHALL INCLUDE ORIGINAL  
19 CERTIFICATES EVIDENCING THE LOAN ORIGINATOR'S SUCCESSFUL COMPLETION OF SIX  
20 CONTINUING EDUCATION UNITS DURING THE PRECEDING ONE YEAR PERIOD BY A  
21 CONTINUING EDUCATION PROVIDER APPROVED BY THE SUPERINTENDENT.

22 E. A LOAN ORIGINATOR SHALL PAY THE RENEWAL FEE EVERY YEAR ON OR BEFORE  
23 DECEMBER 31. LICENSES NOT RENEWED BY DECEMBER 31 ARE SUSPENDED AND THE  
24 LICENSEE SHALL NOT ACT AS A LOAN ORIGINATOR UNTIL THE LICENSE IS RENEWED OR A  
25 NEW LICENSE IS ISSUED PURSUANT TO THIS ARTICLE. A PERSON MAY RENEW A  
26 SUSPENDED LICENSE BY PAYING THE RENEWAL FEE PLUS A DOLLAR AMOUNT TO BE  
27 DETERMINED BY THE SUPERINTENDENT FOR EACH DAY AFTER DECEMBER 31 THAT A  
28 LICENSE RENEWAL FEE IS NOT RECEIVED BY THE SUPERINTENDENT.

29 F. LICENSES THAT ARE NOT RENEWED BY JANUARY 31 OF EACH YEAR EXPIRE. A  
30 LICENSE SHALL NOT BE GRANTED TO THE HOLDER OF AN EXPIRED LICENSE EXCEPT AS  
31 PROVIDED IN THIS ARTICLE FOR THE ISSUANCE OF AN ORIGINAL LICENSE.

32 G. FROM DECEMBER 1 THROUGH DECEMBER 31 OF EACH RENEWAL PERIOD, A  
33 LICENSEE MAY REQUEST INACTIVE STATUS FOR THE FOLLOWING LICENSE PERIOD. THE  
34 LICENSE SHALL BE PLACED ON INACTIVE STATUS AFTER THE LICENSEE PAYS TO THE  
35 SUPERINTENDENT THE INACTIVE STATUS RENEWAL FEE AND SURRENDERS THE LICENSE TO

1 THE SUPERINTENDENT. DURING INACTIVE STATUS, AN INACTIVE LICENSEE SHALL NOT  
2 ACT AS A LOAN ORIGINATOR. A LICENSEE MAY NOT BE ON INACTIVE STATUS FOR MORE  
3 THAN TWO CONSECUTIVE RENEWAL PERIODS IN ANY TEN YEAR PERIOD. THE LICENSE  
4 EXPIRES IF THE LICENSEE VIOLATES THIS SUBSECTION.

5 H. AT RENEWAL AN INACTIVE LICENSEE MAY RETURN TO ACTIVE STATUS BY  
6 DOING ALL OF THE FOLLOWING:

7 1. PROVIDING THE SUPERINTENDENT WITH EVIDENCE THAT THE LICENSEE HAS  
8 MET THE REQUIREMENTS OF SECTION 6-991.03, SUBSECTION B.

9 2. MAKING A WRITTEN REQUEST TO THE SUPERINTENDENT FOR REACTIVATION.

10 3. PAYING THE ANNUAL LICENSING FEE.

11 4. PROVIDING THE SUPERINTENDENT WITH PROOF THAT THE LICENSEE MEETS ALL  
12 OTHER REQUIREMENTS FOR ACTING AS A LOAN ORIGINATOR.

13 I. THE EMPLOYING MORTGAGE BROKER OR MORTGAGE BANKER SHALL KEEP AND  
14 MAINTAIN AT THE PRINCIPAL PLACE OF BUSINESS IN THIS STATE THE LOAN  
15 ORIGINATOR'S LICENSE DURING THE LOAN ORIGINATOR'S EMPLOYMENT. A COPY OF THE  
16 LOAN ORIGINATOR'S LICENSE SHALL BE AVAILABLE FOR PUBLIC INSPECTION DURING  
17 REGULAR BUSINESS HOURS.

18 J. A LOAN ORIGINATOR SHALL IMMEDIATELY NOTIFY THE SUPERINTENDENT OF A  
19 CHANGE IN THE LOAN ORIGINATOR'S RESIDENCE ADDRESS. THE SUPERINTENDENT SHALL  
20 ENDORSE THE CHANGE OF ADDRESS ON THE LICENSE FOR A FEE TO BE DETERMINED BY  
21 THE SUPERINTENDENT.

22 K. WITHIN FIVE BUSINESS DAYS AFTER ANY LICENSEE'S EMPLOYMENT  
23 TERMINATION, THE EMPLOYING MORTGAGE BROKER OR MORTGAGE BANKER SHALL DO BOTH  
24 OF THE FOLLOWING:

25 1. NOTIFY THE SUPERINTENDENT OF THE LICENSEE'S TERMINATION.

26 2. RETURN THE LICENSE TO THE SUPERINTENDENT.

27 6-991.05. Denial, suspension or revocation of licenses

28 A. THE SUPERINTENDENT MAY DENY A LICENSE TO A PERSON OR SUSPEND OR  
29 REVOKE A LICENSE IF THE SUPERINTENDENT FINDS THAT AN APPLICANT OR LICENSEE:

30 1. IS NOT A PERSON OF HONESTY, TRUTHFULNESS OR GOOD CHARACTER.

31 2. HAS VIOLATED ANY LAW, RULE OR ORDER.

32 3. HAS BEEN CONVICTED IN ANY STATE OF A FELONY OR ANY CRIME OF BREACH  
33 OF TRUST OR DISHONESTY.

34 4. HAS HAD A FINAL JUDGMENT ENTERED AGAINST THE APPLICANT OR LICENSEE  
35 IN A CIVIL ACTION ON GROUNDS OF FRAUD, DECEIT OR MISREPRESENTATION, AND THE

1 CONDUCT ON WHICH THE JUDGMENT IS BASED INDICATES THAT IT WOULD BE CONTRARY TO  
2 THE INTEREST OF THE PUBLIC TO PERMIT THE PERSON TO BE LICENSED.

3 5. HAS HAD AN ADMINISTRATIVE AGENCY OF THIS STATE, THE FEDERAL  
4 GOVERNMENT OR ANY OTHER STATE OR TERRITORY OF THE UNITED STATES ENTER AN  
5 ORDER AGAINST THE APPLICANT OR LICENSEE INVOLVING FRAUD, DECEIT OR  
6 MISREPRESENTATION, AND THE FACTS RELATING TO THE ORDER INDICATE THAT IT WOULD  
7 BE CONTRARY TO THE INTEREST OF THE PUBLIC TO PERMIT THE PERSON TO BE  
8 LICENSED.

9 6. HAS MADE A MATERIAL MISSTATEMENT OR SUPPRESSED OR WITHHELD  
10 INFORMATION ON THE APPLICATION FOR A LICENSE OR ANY DOCUMENT REQUIRED TO BE  
11 FILED WITH THE SUPERINTENDENT.

12 B. IF A LICENSEE OR APPLICANT UNDER THIS ARTICLE IS INDICTED OR  
13 INFORMED AGAINST FOR FORGERY, EMBEZZLEMENT, OBTAINING MONEY UNDER FALSE  
14 PRETENSES, EXTORTION, CRIMINAL CONSPIRACY TO DEFRAUD OR A SIMILAR OFFENSE,  
15 AND A CERTIFIED COPY OF THE INDICTMENT OR INFORMATION OR OTHER PROPER  
16 EVIDENCE OF THE INDICTMENT OR INFORMATION IS FILED WITH THE SUPERINTENDENT,  
17 THE SUPERINTENDENT MAY SUSPEND THE LICENSE OR REFUSE TO GRANT A LICENSE TO AN  
18 APPLICANT PENDING TRIAL ON THE INDICTMENT.

19 6-991.06. Loan originator examination committee; membership

20 A. THE SUPERINTENDENT SHALL ESTABLISH A LOAN ORIGINATOR EXAMINATION  
21 COMMITTEE TO ESTABLISH AND PERIODICALLY UPDATE STANDARDS FOR PASSING AN  
22 EXAMINATION FOR LOAN ORIGINATORS.

23 B. THE COMMITTEE SHALL CONSIST OF FIVE MEMBERS WHO ARE APPOINTED BY  
24 THE SUPERINTENDENT. THE MEMBERS SHALL SERVE STAGGERED TWO YEAR TERMS. FOUR  
25 OF THE MEMBERS SHALL BE MORTGAGE BROKER LICENSEES AND SHALL BE APPOINTED FROM  
26 NOMINATIONS SUBMITTED BY MORTGAGE BROKER LICENSEES. ONE OF THE MEMBERS SHALL  
27 BE AN EMPLOYEE OF THE DEPARTMENT. THE COMMITTEE SHALL ELECT A CHAIRPERSON.

28 C. LICENSEES WHO SERVE AS MEMBERS OF THE COMMITTEE SHALL NOT RECEIVE  
29 COMPENSATION.

30 6-991.07. Examination; fee; definition

31 A. EACH APPLICANT FOR AN ORIGINAL LOAN ORIGINATOR LICENSE, BEFORE  
32 ISSUANCE OF THE LICENSE, SHALL TAKE AND PASS AN EXAMINATION GIVEN UNDER THE  
33 SUPERVISION OF THE DEPARTMENT. THE EXAMINATION MUST REASONABLY EXAMINE THE  
34 APPLICANT'S KNOWLEDGE OF ALL OF THE FOLLOWING:

35 1. THE OBLIGATIONS BETWEEN PRINCIPAL AND AGENT.

1           2. THE APPLICABLE CANONS OF BUSINESS ETHICS.

2           3. THIS ARTICLE AND THE RULES ADOPTED UNDER THIS ARTICLE.

3           4. THE ARITHMETICAL COMPUTATIONS COMMON TO MORTGAGE BROKERAGE.

4           5. THE PRINCIPLES OF REAL ESTATE LENDING.

5           6. THE GENERAL PURPOSES AND LEGAL EFFECT OF MORTGAGES, DEEDS OF TRUST  
6 AND SECURITY AGREEMENTS.

7           7. THE TERMS AND CONDITIONS OF CONFORMING AND NONCONFORMING  
8 RESIDENTIAL MORTGAGE PRODUCTS.

9           8. THE PRINCIPLES OF APPRAISAL INDEPENDENCE.

10          B. THE EXAMINATION IS SUBJECT TO THE SUPERINTENDENT'S APPROVAL.

11          C. THE DEPARTMENT SHALL SUPERVISE THE ADMINISTRATION OF THE  
12 EXAMINATION TO APPLICANTS FOR LICENSES AT LEAST ONCE EVERY SIX MONTHS. THE  
13 DEPARTMENT SHALL REASONABLY PRESCRIBE THE TIME, PLACE AND CONDUCT OF  
14 EXAMINATIONS AND COLLECT A FEE IN AN AMOUNT TO BE DETERMINED BY THE  
15 SUPERINTENDENT FOR ADMINISTRATION OF THE EXAMINATION TO BE ASSESSED TO ALL  
16 PERSONS TAKING THE EXAMINATION. THE TEST MAY BE GIVEN IN EITHER WRITTEN OR  
17 ELECTRONIC FORMAT.

18          D. AN APPLICANT MAY NOT TAKE THE EXAMINATION MORE THAN TWO TIMES  
19 WITHIN A TWELVE MONTH PERIOD.

20          E. ALL EXAMINATIONS SHALL BE GIVEN, CONDUCTED AND GRADED IN A FAIR AND  
21 IMPARTIAL MANNER AND WITHOUT UNFAIR DISCRIMINATION BETWEEN INDIVIDUALS  
22 EXAMINED. THE COMMITTEE SHALL INFORM THE APPLICANT OF THE RESULT OF THE  
23 EXAMINATION WITHIN THIRTY DAYS OF THE EXAMINATION.

24          F. THE SUPERINTENDENT SHALL DETERMINE THE FEE FOR EACH EXAMINATION.

25          G. FOR THE PURPOSES OF THIS SECTION, "APPLICANT" MEANS A PERSON WHO  
26 HAS SUBMITTED A COMPLETED APPLICATION IN THE FORM PRESCRIBED BY THE  
27 SUPERINTENDENT.

28          6-991.08. Noncompliance not to affect validity of loan

29          FAILURE TO COMPLY WITH THIS ARTICLE DOES NOT AFFECT THE VALIDITY OR  
30 ENFORCEABILITY OF ANY DEBT, MORTGAGE, DEED OF TRUST OR ANY OTHER LIEN  
31 INTEREST ON REAL ESTATE. A PERSON ACQUIRING A MORTGAGE LOAN OR ANY INTEREST  
32 IN A MORTGAGE LOAN AS MORTGAGEE OR BENEFICIARY OR AS AN ASSIGNEE, HOLDER OR  
33 TRANSFEREE OR AS A PLEDGEE OR THE HOLDER OF A SECURITY INTEREST IS NOT  
34 REQUIRED TO ASCERTAIN WHETHER A VIOLATION OF THIS ARTICLE HAS OCCURRED.

1           Sec. 9. Initial terms of members of the loan originator examination  
2                           committee

3           A. Notwithstanding section 6-991.06, Arizona Revised Statutes, as  
4           added by this act, the initial terms of the members of the loan originator  
5           examination committee are:

6                 1. One term ending January 15, 2010.

7                 2. Two terms ending January 15, 2011.

8                 3. Two terms ending January 15, 2012.

9           B. The superintendent shall make all subsequent appointments as  
10          prescribed by statute.”

11          Amend title to conform

and, as so amended, it do pass

BILL KONOPNICKI  
Chairman

1028-se-fii  
3/17/08  
H:jmb

1028bk  
3/13/2008  
9:27 AM  
C: mu